

***United States Court of Appeals
for the Second Circuit***



**PETITIONER'S
REPLY BRIEF**

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77-4028

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

**Docket Nos. 77-4028
78-4047**

**ITT WORLD COMMUNICATIONS INC. and
RCA GLOBAL COMMUNICATIONS, INC.,** *Petitioners,*

—against—

**FEDERAL COMMUNICATIONS COMMISSION and
UNITED STATES OF AMERICA,** *Respondents,*

**GRAPHNET SYSTEMS, INC., TELENET COMMUNICATIONS
CORP., WESTERN UNION INTERNATIONAL, INC., and
TRT TELECOMMUNICATIONS CORP.,** *Intervenors.*

**ON PETITIONS FOR REVIEW OF A MEMORANDUM OPINION, ORDER, AUTHORIZA-
TION AND CERTIFICATE OF THE FEDERAL COMMUNICATIONS COMMISSION**

**REPLY BRIEF FOR PETITIONER
ITT WORLD COMMUNICATIONS INC.**

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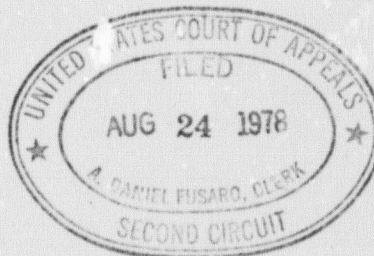


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On Petitions for Review of a Memo-
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tion and Certificate of the Federal
Communications Commission

REPLY BRIEF FOR PETITIONER
ITT WORLD COMMUNICATIONS INC.

Petitioner ITT World Communications Inc. ("ITT
Worldcom") submits this brief in reply to the brief of res-
pondent Federal Communications Commission ("FCC" or the

"Commission"), and the joint brief of intervenors Graphnet Systems, Inc. ("Graphnet"), and Telenet Communications Corp. ("Telenet").

SUMMARY OF THE PARTIES' POSITIONS

At issue in this consolidated review proceeding are an Order* and a Reconsideration Order** of the FCC which authorize both Graphnet and Telenet to offer certain international data communications services in competition with the existing international data/record carriers ("IRCs").***

ITT Worldcom, the party whose Petition for Review commenced this proceeding, does not challenge the FCC's decision to permit Graphnet and Telenet to compete with the existing international carriers by offering the new international services at issue here. ITT Worldcom only challenges the discriminatory fashion in which this decision was implemented. More particularly, ITT Worldcom's brief demonstrates that the FCC gave the

* Graphnet Systems, Inc., 63 F.C.C. 2d 402 (1977), reproduced in the Joint Appendix at JA 1-JA 13.

** Graphnet Systems, Inc. F.C.C. 2d (1978) (JA 20-JA 44).

*** As the FCC points out in its brief, pp. 3-4, a thorough understanding of the complex technology underlying the carriers' new services is not necessary to permit the Court to decide the issues raised on this appeal. What is significant is the fact that the new services which Graphnet and Telenet are authorized to offer will be directly competitive with similar services being offered by the IRCs.

new carriers an arbitrary and unfair competitive advantage by granting Graphnet and Telenet unrestricted freedom to operate anywhere in the United States, while continuing the prohibitions which the Commission has historically placed on domestic activities by the IRCs.* The judicial remedy which ITT Worldcom seeks is not an order revoking the new carriers' international authorizations, but rather a limited remand, which would require only that the FCC modify the authorizations it has made so that the IRCs and their new competitors will all be given equal and fair opportunities to compete with one another.

In their briefs, petitioner RCA Global Communications, Inc. ("RCA Globcom") and intervenor TRT Telecommunications Corp. ("TRT") join ITT Worldcom in pointing out the unfairness inherent in the FCC's disparate treatment of the IRCs and the new carriers.** However, both of these IRCs, unlike ITT Worldcom, also urge the Court to review and reverse

* As discussed in ITT Worldcom's principal brief, pp. 4-10, 13-16, the FCC has confined the IRC's activities within the United States to five "gateway" cities. The Commission has extended its restrictive gateway policies to the point of denying the IRCs the right to interconnect with operationally separate domestic carriers which are owned by the IRCs' corporate parents.

** See, e.g., RCA Globcom Brief, pp. 38-39, 46-48; TRT Brief, p. 26 et seq.

the FCC's basic decision to permit Graphnet and Telenet to compete in the international market.*

The answering briefs of the FCC and of Graphnet and Telenet are, for the most part, written as if the only issues presented for review are the challenges RCA Globcom and TRT raise to the FCC's threshold decision to permit Graphnet and Telenet to compete with the IRCs. However, assuming that the FCC was correct in its decision to permit Graphnet and Telenet to render international service, the Court should still consider the more limited grounds for reversal urged by ITT Worldcom, i.e., the Commission's failure to justify the preferential competitive status which it has given Graphnet and Telenet. To the limited extent that the answering briefs attempt to address this issue, they are patently unable to demonstrate that the FCC's Order and Reconsideration Order provide the necessary justification for the Commission's more restrictive regulatory treatment of the IRCs. Indeed, as will be discussed herein, the FCC's brief concedes that the two

* RCA Globcom's brief demonstrates that the record does not support the FCC's finding of an unmet public need for Graphnet's and Telenet's services, and that the FCC has not adequately evaluated the possible adverse effects of its decision on the IRCs, which may diminish their ability to serve the public. TRT argues that, as a matter of law, Section 222 of the Communications Act prohibits the FCC from authorizing domestic carriers such as Graphnet and Telenet to provide international data communications services.

factors on which the Order appears to rely---the erroneous assumption that the Commission's actions were dictated by Section 222 of the Communications Act, and the Commission's apparent desire to protect Graphnet and Telenet from the competition of the IRCs---do not adequately justify the Commission's preferential treatment of Graphnet and Telenet. Despite this concession, neither the FCC nor the intervenors can point to any other finding or holding in the Order which supplies the necessary explanation for the Commission's discrimination against the IRCs. Instead, the opposing briefs rely principally on the argument that the Court should permit the Commission's discriminatory treatment of the IRCs to continue because the FCC retains jurisdiction to remedy that discrimination at some unspecified future date. Such an argument cannot sustain the FCC's Order in its present form, as will be discussed below.

Before turning to the opposing briefs' limited efforts to answer ITT Worldcom's opening brief, it should be emphasized that most of the arguments made by Graphnet, Telenet and the FCC have no relevance to the issues raised by ITT Worldcom. For example, the opposing briefs attempt at length to demonstrate the public's need for the new services which Graphnet and Telenet wish to offer internationally. Graphnet and Telenet stress the allegedly innovative nature of their

services, and the FCC argues its purported need to obtain additional experience with new communications services by permitting Graphnet and Telenet to operate internationally on an experimental, "developmental" basis.* While such considerations may have bearing on the points made by RCA Globcom and TRT, they have no relevance to the issues raised by ITT Worldcom, for the simple reason that ITT Worldcom does not ask the Court to prevent Graphnet and Telenet from offering their new international services to the public in competition with the IRCs.

Far from frustrating any of the goals of the FCC's Order, the equal competitive opportunity which ITT Worldcom seeks for the IRCs will actually promote the Order's stated

* In view of the opposing briefs' reliance on the public need which the FCC believes Graphnet and Telenet can meet with their "innovative" new offerings, it is ironic that Graphnet and Telenet have not implemented their proposed international services in the 19 months since the FCC's original Order was adopted, as a result of their failure to enter into the necessary operating agreements with the appropriate foreign telecommunications administrations. See RCA Globcom Brief at pp. 3-4. It is therefore apparent that Graphnet's and Telenet's claim to the status of innovators in the international communications industry rests largely on their decision to win the "paper race" to file their applications with the FCC by ignoring the FCC's traditional policy of requiring the negotiation of operating agreements before applications for service authorizations are filed. The IRCs, by contrast, made the necessary arrangements with foreign administrations before submitting their own applications, and were therefore actually able to provide the public with their new services shortly after the FCC granted its approval.

objectives. Obviously, permitting potential customers to make a free and unbiased choice among all of the carriers will further the FCC's efforts to reward successful competitors and thereby encourage development of the best possible communications services, since patronage will be determined solely on the relative merits of the new services being offered. Similarly, equality of competitive opportunity is consistent with the FCC's wish to increase its administrative understanding of the carriers' new technologies, since data on the carriers' competitive success will not be distorted by the effects of regulatory constraints which are applicable to some carriers, but not others.

In short, ITT Worldcom's position in this Court is nothing more than the corollary of the rationale which the FCC itself gave for its decision to permit Graphnet and Telenet to compete with the IRCs. If, as the FCC has held, competition among the existing and the new international carriers will serve the public interest by stimulating advances in technology and improvements in service quality, it necessarily follows that the public benefits which the FCC hopes to achieve can best be attained if all carriers are given equal opportunities to compete for customers and to serve the public. In the absence of an adequate explanation for the Commission's discriminatory treatment of the IRCs--an explanation which is

found neither in the FCC's decision nor in the opposing briefs --the FCC's Order should be reversed and remanded, so that the FCC can eliminate the inconsistency in its regulatory treatment of the two groups of carriers.

ARGUMENT: The Opposing Briefs Fail To Demonstrate That The FCC Adequately Justified Its Discriminatory Treatment Of The IRCs.

ITT Worldcom's analysis of the FCC's Order begins with a fundamental premise of administrative law which neither of the opposing briefs attempts to challenge: The Commission is bound by law to treat all parties before it in a similar manner unless it can articulate a reasonable explanation for differences in treatment.* In its brief, ITT Worldcom demonstrated the significant competitive advantage which the Commission granted Graphnet and Telenet by permitting them to operate an integrated domestic and international communications network while the IRCs are prohibited from operating anywhere in the United States except the five "gateway" cities, and are prevented from interconnecting their communications

* See ITT Worldcom Brief at pp. 26-31. Among the precedents on which ITT Worldcom relies is this Court's decision in Marco Sales Co. v. F.T.C., 453 F.2d 1, 7 (2nd Cir. 1971), in which the Court pointed out that "law does not permit an agency to grant to one person the right to do that which it denies to another similarly situated." See also, British Airways Board v. Port Authority of New York and New Jersey, 558 F.2d 75 (2nd Cir. 1977), opinion following remand, 564 F.2d 1002 (2nd Cir. 1977).

facilities with those of affiliated domestic carriers.* The issue posed by ITT Worldcom's appeal is whether the FCC's Order adequately justified this preferential treatment of Graphnet and Telenet. To show that the necessary justification was lacking, ITT Worldcom's brief discussed the two considerations on which the Order appeared to rely as explanations for the differences in its treatment of Graphnet and Telenet and the IRCs. First, ITT Worldcom demonstrated that Section 222 of the Communications Act, which the Commission seemed to consider a statutory bar to expanding the IRCs' domestic operations, did not in fact deny the FCC the discretion to relax the domestic restrictions it had placed on the IRCs in order to permit them to compete with the new carriers.** Second, ITT Worldcom showed that the Order's apparent attempt to grant Graphnet and Telenet competitive advantages to counterbalance the competitive strengths of the established international carriers was an inadequate justification for the Commission's actions under the teaching of Hawaiian Telephone Company v. F.C.C., 498 F.2d 771 (D.C. Cir. 1974), which establishes the rule that the Commission must be concerned only with the effect of competition on the public and that it may not artificially alter the workings

* See ITT Worldcom Brief, pp. 19-22, 28.

** See ITT Worldcom Brief, pp. 31-40.

of the marketplace merely to protect one competitor from another.*

The FCC's brief does not attempt to demonstrate that the two considerations discussed in ITT Worldcom's brief adequately justified the differences in the Commission's treatment of the two groups of carriers. To the contrary, the FCC's attempts to "answer" ITT Worldcom's discussion of these two issues, which are confined to two footnotes in its brief, admit that neither Section 222 of the Communications Act nor concern for the competitive success of Graphnet and Telenet justified the preferential status which Graphnet and Telenet were granted. Thus, although the Order had stated that "any possible competitive disadvantages which might accrue to the [IRCs] in this situation derive not from our actions authorizing Graphnet and Telenet to extend their service offerings, but from restrictions which Congress imposed on the IRCs," (JA 8), the FCC's brief now advises the Court that "[i]n the Order under review here, the Commission's discussion of Section 222 was pure dictum". FCC Brief, p. 30, n. 22.** Similarly, the FCC's brief now states that

* See ITT Worldcom Brief, pp. 41-44.

** The Joint Brief of Graphnet and Telenet, at p. 20, similarly disclaims reliance on Section 222.

"the necessity of protecting Graphnet and Telenet from competition" was "clearly" not "a basis for the Commission's decision." FCC Brief, p. 33, n. 24.*

The FCC's concessions are dispositive. For although both the FCC and Graphnet and Telenet criticize ITT Worldcom for "erroneously" interpreting the Order when it asserted that the FCC had relied on Section 222 and the need to protect the new carriers from competition, neither of the opposing briefs can show that the Order gave some other proper explanation for the preferential treatment of Graphnet and Telenet.** If, as the opposing briefs apparently concede, the two factors

* To the same effect, see the Graphnet and Telenet Brief, p. 23.

** Since the Order refers to the "restrictions dictated by Section 222" and "the limitation placed upon" the IRCs by that statute, (JA 8), it seems unlikely that ITT Worldcom's reading of the Order was as "erroneous" as the FCC suggests. Rather, it would appear that the FCC is not prepared to defend the Order's interpretation of Section 222 in this Court, but instead seeks to dismiss it as nothing more than dictum. However, it is apparent from the face of the Order that Section 222 was a major factor in the Commission's decision-making process. Now that the FCC's brief has disclaimed reliance on Section 222, the FCC's order should be remanded, if for no other reason than to permit the FCC to provide the Court with a fuller and more definitive statement of the Commission's interpretation of Section 222 and its significance to this proceeding. As the Supreme Court has observed, the Court "must know what a decision means before the duty becomes ours to say whether it is right or wrong." Atchison, Topeka & Santa Fe R. Co. v. Wichita Board of Trade, 412 U.S. 800, 807 (1973), quoting from United States v. Chicago, M. St. P. & P.R. Co., 294 U.S. 499, 511 (1935).

discussed in ITT Worldcom's brief did not explain the FCC's actions, the question then becomes "What other justification can be found in the Order for the FCC's discriminatory treatment of the IRCs?"* Since the opposing briefs fail to demonstrate that anything else in the FCC's decisions adequately explains the competitive inequality which the Commission has created, the FCC's Order must be reversed.

A. The FCC's Brief Erroneously Argues That The IRCs Will Not Be Placed At A Competitive Disadvantage By The Order.

As a possible justification for the FCC's preferential treatment of Graphnet and Telenet, the FCC's brief points to the Order's purported finding that the Commission's failure to place domestic restrictions on the new carriers comparable to those applicable to the IRCs would not place the IRCs at a competitive disadvantage. This finding is completely unsupported by substantial evidence in the record before the Commission; the IRCs all complained of the unfair competitive advantage Graphnet and Telenet would receive from the FCC's

* Justification for the FCC actions must be found in the Order itself, and cannot be supplied by arguments made for the first time in this Court. See, e.g., S.E.C. v. Chenery Corp., 332 U.S. 194, 196 (1947); Burlington Truck Lines, Inc. v. United States, 371 U.S. 156, 168-169 (1962); Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 419 (1971); Grace Line, Inc. v. F.M.B., 263 F.2d 709, 711 (2d Cir. 1959).

decision, and none of the parties to the administrative proceeding sought to establish the contrary.* Moreover, the FCC's "finding" is so clearly at odds with the competitive realities of the situation as to be unsupportable. It is obvious that prohibiting the IRCs from competing in all but five American cities, except through interconnection with an unaffiliated domestic carrier, places them at a considerable disadvantage in competing with Graphnet and Telenet, both of which are permitted to operate a single, integrated domestic and international communications network throughout the country.**

* Significantly, Graphnet and Telenet do not argue in their Joint Brief that the Order does not grant them a competitive advantage.

The FCC's Order criticized the IRCs for not having "demonstrated" the extent of the competitive injury they would suffer from the FCC's decision. However, the IRCs described their anticipated competitive injury in the pleadings they submitted to the FCC, (JA 370-71, 387-88, 683), and there was nothing more that they could have done in the FCC's notice-and-comment proceeding, which provided no opportunity for hearing, discovery, or the development of an evidentiary record.

** The disadvantages inherent in requiring the IRCs to operate through interconnection with domestic carriers are described in ITT Worldcom's brief, pp. 19-22. In such an arrangement, the IRCs have no control over the quality or the cost of domestic services which are necessary to permit them to serve areas outside their gateway cities. Moreover, the ease with which ITT Worldcom can obtain interconnection has been overstated, since there is presently only one unaffiliated domestic carrier, aside from Graphnet and Telenet, which can provide the necessary services, and if the FCC's Order is sustained this carrier may be expected to seek authority to serve international customers directly, just as Graphnet and Telenet have done. See ITT Worldcom Brief, p. 24.

How did the FCC reach its conclusion that the IRCs would suffer no competitive disadvantage from the Order, which is so inconsistent with both the facts and elementary logic? The answer, it now appears, is that the FCC applied an erroneous legal standard drawn from Carroll Broadcasting Co. v. F.C.C., 258 F.2d 440 (D.C. Cir. 1958). See FCC Brief at p. 26. As the FCC's brief points out, Carroll requires an existing carrier which wishes to preclude the entry of new competition into its market to demonstrate that the competitive impact of the new entrant on the existing carrier will be so severe that it will impair the existing carrier's ability to provide its services to its customers, thereby injuring the public.* When the Order concluded that the IRCs would not be competitively disadvantaged by the FCC's preferential treatment of Graphnet and Telenet, it could only have meant, given the context and the undisputed competitive handicaps placed on the IRCs, that the IRCs would not suffer competitive detriment of the magnitude which would be sufficient under

* On its facts, Carroll was concerned only with the Commission's regulation of radio broadcasters under Title III of the Communications Act, 47 U.S.C. §301 et seq. The FCC's brief assumes that the holding of Carroll should be extended by analogy to the FCC's regulation of common carriers (including the parties to this proceeding), which is undertaken pursuant to Title II of the Act, 47 U.S.C. §201 et seq.

Carroll to defeat Graphnet's and Telenet's applications for authority to operate internationally.*

What the Order failed to recognize was that after the threshold decision was made to permit Graphnet and Telenet to offer international services, the Commission still had to face the question of how the two groups of competing carriers should be regulated. This second question raised issues of fairness and equality of treatment which could not be resolved on the basis of the Commission's Carroll determination that the IRCs would not be totally precluded from competing with the new carriers by the inequity of the Commission's regulatory approach. The IRCs need not demonstrate their imminent demise to claim equality of treatment from the Commission. To the contrary, cases like Marco Sales, Hawaiian Telephone, and the other precedents discussed in ITT Worldcom's brief establish a presumption that the Commission must treat all competitors similarly and if the Commission wishes to deny equality of treatment, it must give an adequate explanation for its actions. In contrast to the FCC's Carroll determination to permit Graphnet and Telenet to compete with the established

* The Commission found that the IRCs had "inherent advantages over Graphnet and Telenet by virtue of their established standing in the international field," and "even under restrictions dictated by Section 222," the IRCs are "provided sufficient flexibility to offer their services in an effective manner and in a highly competitive basis." (JA 8)

carriers, where the Commission could properly require the IRCs to demonstrate competitive injury, the Commission bears the responsibility of justifying the special treatment afforded Graphnet and Telenet. See, Melody Music Inc. v. F.C.C., 345 F.2d 730 (D.C. Cir. 1965), and the other authorities cited at p. 30 of ITT Worldcom's brief. The Commission may not place the burden on the IRCs to establish their entitlement to equality of treatment, as the Order attempts to do. Because the FCC failed to recognize that different policy considerations and legal standards were applicable to the basic decision to permit Graphnet and Telenet to compete with the IRCs and the separate issue of how the two groups of carriers should be regulated once that basic decision was made, the FCC failed to adequately justify its discriminatory treatment of the IRCs, and this aspect of its Order must be reversed.*

* The opposing briefs seek to establish that the Commission's failure to require separate incorporation of Graphnet's and Telenet's international operations is justified by the unlikelihood of cross-subsidization of domestic operations by international revenues, a danger the FCC claimed might result from the IRCs' domestic operations. However, separate incorporation of domestic and international operations is not, in itself, at issue on this appeal. The IRCs do not suffer a competitive disadvantage because the FCC has required the creation of separate domestic carriers and the maintenance of separate books of account.

[Footnote continued on next page]

B. The Court Should Not Refrain From Reversing The Commission's Discriminatory Treatment Of The IRCs On The Chance That The Commission May Someday Remedy the Discrimination.

The principal argument made by Telenet and Graphnet (in which the FCC also joins) in that the Court should not correct the inequities is the FCC's treatment of the IRCs because the Commission may ultimately decide to do so itself, at the conclusion of its long-delayed inquiry into the IRCs' requests for additional gateway cities (the "Docket 19660" proceeding).

[Footnote continued from previous page]

The IRCs are prejudiced because, in addition to requiring separate corporations, the FCC has prohibited interconnection between the IRCs and their affiliated domestic carriers. The FCC has never suggested that this interconnection prohibition is justified by its concern for cross-subsidization; the only explanation the Commission has ever given for the prohibition is that such interconnection would, in the FCC's opinion, result in an expansion of the international carriers' operations outside the gateway cities. See, e.g., ITT Domestic Transmission Systems Inc., 62 F.C.C. 2d 236, 242-43 (1976); United States Transmission Systems, Inc., 48 F.C.C. 2d 859, 862 (1974), aff'd. sub nom. AT&T v. F.C.C., 539 F.2d 767 (D.C. Cir. 1976). The FCC has now conceded that Section 222 is not a statutory bar to such an expansion, and it would appear that any policy considerations supporting the interconnection restrictions which have been placed on the IRCs would be equally applicable to Graphnet and Telenet.

The possibility that the Commission may, at some unspecified future date,* equalize its regulatory treatment of the IRCs and their new competitors is not an adequate ground for sustaining the Order. As this Court recognized in its recent decision in the International Formula case,** even an "interim" decision by the FCC must be fully justified where, as here, the Commission's actions have immediate economic and competitive impact on the parties.*** The necessity

* As discussed in ITT Worldcom's brief, pp. 9-11, the Docket 19660 proceeding has been repeatedly delayed, and the Commission's brief makes no commitment to complete it within any fixed period of time. The FCC decision attached as Addendum A to the FCC's brief indicates that this proceeding, which is now over six years old, is likely to draw on indefinitely. The FCC is requiring the IRCs to file supplemental applications (in part because the information in the carriers' original filings is now, as a result of the FCC's delays, deemed to be too old to be reliable) and it is clear from Addendum A that the additional pleadings which the FCC contemplates will result in additional delays.

** RCA Global Communications Inc. v. F.C.C. 559 F.2d 881, 890 (2nd Cir. 1977), on reh'g., 563 F.2d 1 (2nd Cir. 1977), opinion following remand, 574 F.2d 727 (2nd Cir. 1978).

*** See also, ABC Air Freight Company v. C.A.B., 391 F.2d 295 (2nd Cir. 1968), in which the Court required full justification for a purportedly "experimental" administrative decision that would have modified the existing structure of the industry which the C.A.B. regulated. In that opinion, Judge Friendly observed that "experience ... suggests the fatuousness of believing" the changes made by the C.A.B.'s decision "could be feasibly brought to an end" after the experimental period ended. 391 F.2d at 300, n. 5.

for requiring the FCC to explain even a temporary disparity in its treatment of the IRCs is especially compelling in this case, because even a temporary competitive advantage will give Graphnet and Telenet an invaluable "head start" in winning customer patronage. The FCC has not attempted to explain why the same rules cannot be applied to all competitors during the pendency of the Docket 19660 proceeding, and the Order should therefore be reversed.*

CONCLUSION

The issue posed by ITT Worldcom's Petition for Review can be summarized in a single question: What public interest is served by placing ITT Worldcom and the other IRCs at an artificial disadvantage in their competition with Graphnet and Telenet? ITT Worldcom respectfully submits that this fundamental question is not answered by the FCC's Order and remains unanswered by the opposing briefs.

* Graphnet and Telenet argue, without elaboration, that it would place "an impossible administrative burden" on the FCC to require equality of treatment while Docket 19660 is in progress. However, there is nothing in the FCC's Order to support this argument, or to establish that considerations of administrative convenience played any role in the FCC's decision. To the contrary, it would seem, in the absence of any contrary statement by the Commission, that considerations both of fairness and of administrative simplicity favor treating all carriers equally during the Docket 19660 proceedings.

The Order should therefore be reversed and remanded so that the Commission can equalize its regulatory treatment of Graphnet, Telenet and the IRCs.

Dated: New York, New York
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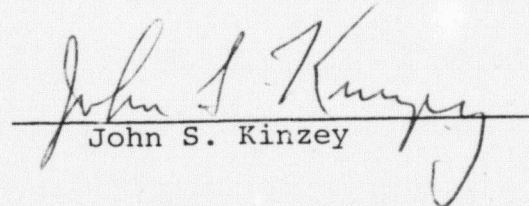
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Dated: New York, New York
August 24, 1978


John S. Kinzey

CERTIFICATE OF SERVICE

1. I am an attorney associated with the firm of LeBoeuf, Lamb, Leiby & MacRae, attorneys for petitioner, ITT World Communications Inc.

2. I hereby certify that the attached Reply Brief has been served on the attorneys of record for all parties to this proceeding in the following manner.

3. At my direction, copies were delivered today by hand to the following persons at the listed addresses:

John Shutkin, Esq.
Cahill Gordon & Reindel
Attorneys for Petitioner
RCA Global Communications, Inc.
80 Pine Street
New York, New York

Alan Kolod, Esq.
Stroock, Stroock & Lavan
Attorneys for Intervenor
Western Union International, Inc.
61 Broadway
New York, New York

4. I have this day served the Reply Brief on all remaining parties to this proceeding by mailing true copies thereof, first class mail, postage prepaid, to the following persons at the listed addresses:

Federal Communications Commission
Washington, D.C. 20554
Att.: Gregory M. Christopher, Esq.

